

**STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE PUBLIC UTILITIES COMMISSION**

In the Matter of the Application of Otter Tail Corporation d/b/a Otter Tail Power Company for Authority to Increase Rates for Electric Utility Service in Minnesota

**THIRD PREHEARING ORDER**

On December 17, 2007, Jonathan M. Drews filed a Petition to Intervene on Behalf of Members of Utility Research LLC. On December 24, 2007, Otter Tail Power Company (OTP) notified the Administrative Law Judge that it did not object to that Petition.

On December 21, 2007, Missouri River Energy Services (MRES) filed a Petition to Intervene. On December 28, 2007, OTP filed an Objection to that Petition.

Based upon the submissions of the parties, and for the reasons set forth in the following Memorandum, the Administrative Law Judge makes the following:

**ORDER**

**Parties**

1. The Petition to Intervene filed by Mr. Drews is **GRANTED**. Mr. Drews and James M. Nessa are admitted individually as parties in this matter.
2. The Petition to Intervene of Missouri River Energy Services is **GRANTED**.

Dated: January 17th , 2008

/s/ Steve M. Mihalchick  
STEVE M. MIHALCHICK  
Administrative Law Judge

**MEMORANDUM**

Mr. Drews entitled his petition, "Petition to Intervene on Behalf of Members of Utility Research LLC." The first sentence of the Petition states, "UTILITY RESEARCH LLC hereby request [sic] intervention as a party in the above captioned matter." The Petition describes Utility Research LLC as being wholly owned and directed by Mr.

Drews and James M. Nessa. It describes them as having broad knowledge of OTP's finances and other rate-related matters through "previous employment" and as being the original "Hotline Claimants" in Docket 04-1751. They desire to provide additional rate-related information not addressed in Docket 04-1751.

OTP has not objected and it appears appropriate to allow Mr. Drews and Mr. Nessa to participate as parties because they may have evidence to provide that is not otherwise available. The Petition is unclear as to whether Mr. Drews is seeking party status for Utility Research LLC or for himself and Mr. Nessa. Mr. Drews does not claim to be an attorney. To avoid potential unauthorized practice of law issues, it is most proper to allow the individuals to appear as parties on their own behalf, but not on behalf of the organization. As individuals, they may present evidence and may question witnesses in accordance with the Contested Case rules. They are subject to the same obligations as all parties.

MRES is a joint action agency that has 24 Minnesota members, all of which own and operate municipal electric utilities that provide electric service to consumers in Minnesota. It is an affiliate of the Western Minnesota Municipal Power Agency (Western Minnesota). The members contract for transmission services using an integrated transmission system. OTP provides the operation and maintenance of an integrated transmission system, including lines owned by Western Minnesota. MRES claims that it has an interest in the reasonableness of the costs incurred by OTP, which are a part of the rates at issue here, and that no other party can adequately represent its interests in this proceeding. It also claims that OTP's costs for operation and maintenance services have increased significantly during the past five years, and those costs will be addressed in this proceeding.

OTP objects because the purpose of a general rate case is to establish retail rates for a utility's customers and MRES takes no retail services from OTP. Rather, MRES purchases electric transmission service wholesale from OTP, and the rates for that services are set exclusively by the Federal Energy Regulatory Commission (FERC). Moreover, it asserts that the payments made by MRES will not be affected by the outcome of this proceeding.

OTP's objections assume too narrow a reading of the scope of this proceeding. Although MRES may not be directly affected by the final retail rates, there will be a determination of the reasonableness of the costs incurred by OTP, the allocation of those costs across the customer classes and the appropriate rate of return, as well as expenses reasonably incurred for energy conservation improvements. MRES may have evidence that is relevant to these determinations and goes to the reasonableness of OTP's request. The resolution of the components of OTP's rate request may effect future agreements between OTP and MRES. In addition, OTP's revenue requirement will depend in part on sales forecasts, customer counts and the effects of conservation

efforts. MRES may offer evidence that will allow closer scrutiny of OTP's projected future demand, and the "public need for adequate, efficient, and reasonable services."<sup>1</sup>

Since the record may be enhanced through the participation of MRES, its Petition to Intervene is granted.

S.M.M.

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<sup>1</sup> Minn. Stat. § 216B.16, subd. 6.